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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/756,386	01/08/2001	Thomas D. Petite	081607-1021	6996

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EXAMINER

BARNIE, REXFORD N

ART UNIT

PAPER NUMBER

2643

DATE MAILED: 05/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.
09/756,386

Applicant(s)
THOMAS PETITE

Examiner
Rexford Barnie

Art Unit
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 15, 2002
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-73 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 U.S.C. § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 33, 46, 55, 72 and 73 are rejected under 35 U.S.C. 102(b) as being anticipated by Karimullah (US Pat# 5,343,493, cited by applicant).

Regarding claims 33, 46, 55, 72 and 73, Karimullah teaches a personal assistance system and method for use with a cellular communication system comprising of a transmitter (20), a transceiver (80) connected to a cell site (30) and to a PSTN (70) wherein a user/subscriber can transmit a service request to a monitoring station (AAA, ADT, 911 and so forth, see fig. 1). Karimullah teaches sending a remote signal to request a service wherein the location of the transmitter can be determined and a codeword can be used to send instruction indicative of a requested service (see columns 7-8).

3. Claims 33, 46, 55 and 72-73 are rejected under 35 U.S.C. 102(b) as being anticipated by Lebowitz (US Pat# 4,825,457, cited by applicant).

Regarding claims 33, 46, 55, 72 and 73, Lebowitz teaches a cellular network data transmission system comprising of sensing a condition from a burglar alarm, fire detector and so forth wherein a remote signal can be sent to a central monitoring station for further analysis (see

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entire disclosure). Lebowitz teaches in (column 4 and so forth) determining the location of the origination of an alarm wherein a service request instruction is received. Note that the monitoring system can be used in conjunction with a plurality of devices (see column 2 lines 48-52).

Lebowitz teaches a network system in (fig. 1) comprising of a transmitter (see sensors, 11, 12, 65, 16, 26) configured to transmit a relatively low power signal comprising information to a transceiver (33) located remotely from but in close proximity to the transmitter comprising a line interface circuit to interface with a telephone line wherein the telephone line is part of the PSTN and a controller configured to send the signal over the telephone line wherein the signal comprises of alarm information and a central location remotely located from the transceiver configured from the transceiver via the telephone line and receive the information

Claim Rejections - 35 U.S.C. § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 34-45, 47-54 and 56-71 rejected under 35 U.S.C. 103(a) as being unpatentable over Lebowitz in view of Burnett (US Pat# 6,067,030, cited by applicant).

Regarding claims 34-45, 47-54 and 56-71, Lebowitz fails to teach the claimed subject matter but Burnett teaches monitoring of a system wherein an alarm signal can be sent via the internet, PSTN, wireless transmission and so forth (see column 3 lines 63-67) and the address associated

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with the origination point can be displayed on a graphical interface (see column 7 lines 16-33). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Burnett into that of Lebowitz thus making it possible to transmit an alarm signal via the internet to include pertinent information about the originating address.

Response to Arguments

4. Applicant's arguments filed have been fully considered but they are not persuasive.

The applicant argued that the transceiver can be disposed in a payphone.

The feature is not directed to the independent claims.

The applicant argued basically the following arguments in regard to the prior art of record (Karimullah) fails to teach a low power RF transmission or transmitter.

The examiner disagrees because Karimullah teaches a low power transmitter which would transmit a low powered signal indicative of a message to be transmitted to a central monitoring station. Karimullah specifically teaches the fact that the transmitter is a low powered transmitter (see column 4 lines 26, lines 42-64, column 5 lines 64-65). The transmitter has to be in proximity to the cell-sites for the cell-site to detect a transmitted signal indicative of a request. The fact that the low transmitter would be in close proximity and must be construed to be about (say 30-50 feet) and no more is not directed to the claimed subject. The explanation as set forth in the rejection of the claimed subject matter is believed proper and permissible.

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The applicant argued that the prior art of record (Lebowitz) fails to teach a low-power transmitter, transceiver in close proximity to the transmitter, a telephone circuit which interface to the PSTN and finally to the central office.

The examiner strongly disagrees because Lebowitz teaches alarm sensors “burglar, fire alarm detector” are devices found in subscriber homes which do transmit “low signals” indicative of an alarm situations and not excessively high frequency signals as the applicant seems to imply. Lebowitz teaches clearly in (fig. 1), a system capable of receiving a transmitted coded signals indicative of a problem and then transmitting the information over a PSTN circuit (wireline) and finally to a central monitoring station connected to the PSTN. See the explanation as set forth in the rejection using Lebowitz, no grounds of rejection was used, the examiner cited apparatus taught and shown by the prior art of record which reads on the claimed subject matter in view of the applicant’s argument that “a scant” explanation was given using Lebowitz.

The applicant argued that the combination as set forth in the rejection of the claimed subject under 35 U.S.C. 103 (a) fails to render the claimed subject matter, lacks motivation for the combination and based in part on hindsight by the examiner.

In response to applicant's argument that there is no motivation to use the secondary reference due to lack of motivation , the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test

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is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, there is suggestion to combine because the applied secondary reference teaches the possibility of being able to transmit alarm signals over a wireless medium, PSTN, an internet medium and so forth to a final destination. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Burnett into that of the primary reference to include the fact that transmission of alarm signals or

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information over different transmission mediums can be made possible and in this case of Burnett, transmission over the internet would enable transmission/retrieval of signals to a wide geographical area, an advantage known and associated with the internet.

The explanation as set forth in the rejection of the claimed subject matter is believed proper and permissible.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Walsh et al. (US Pat# 5,548,632) teaches a safe alerting system for system for remotely located sites comprising of a short range transmitter which can transmit a signal to a monitoring station located remotely away.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communication from the examiner should be directed to REXFORD BARNIE whose telephone number is (703) 306-2744. The examiner can normally be reached on Monday through Friday from 8:30 to 6:00p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached on (703) 305-4708.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

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or faxed to (703) 872-9314 and labeled accordingly (Please label **"PROPOSED/INFORMAL"** or **"FORMAL"**).

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 306-0377.

Rexford Barnie
Patent Examiner
RB 05/22/02

RW Barnie

REXFORD N. BARNIE
PATENT EXAMINER